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Strike 3 Holdings, LLC

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

STRIKE 3 HOLDINGS, LLC

Plaintiff,

VS.

JOHN DOE subscriber assigned IP address 76.91.237.15.

Defendant.

Case Number: 5:22-cv-01393-TJH-SP

**FIRST AMENDED COMPLAINT
FOR COPYRIGHT
INFRINGEMENT - DEMAND FOR
JURY TRIAL**

[REDACTED VERSION]

Plaintiff, Strike 3 Holdings, LLC (“Strike 3” or “Plaintiff”), brings this First Amended Complaint against John Doe subscriber assigned IP address 76.91.237.15, [REDACTED] (“Defendant”) and alleges as follows:

Introduction

1. This is a case about the ongoing and wholesale copyright infringement of Plaintiff's motion pictures by Defendant.

2. Plaintiff is the owner of award-winning, critically acclaimed adult motion pictures.

3. Strike 3's motion pictures are distributed through the *Blacked*, *Tushy*, *Vixen*, *Tushy Raw*, *Blacked Raw*, and *Slayed* adult websites and DVDs. With millions of unique visitors to its websites each month, the brands are famous for

1 redefining adult content, creating high-end, artistic, and performer-inspiring
2 motion pictures produced with a Hollywood style budget and quality.

3 4. Defendant is, in a word, stealing these works on a grand scale. Using
4 the BitTorrent protocol, Defendant is committing rampant and wholesale
5 copyright infringement by downloading Strike 3's motion pictures as well as
6 distributing them to others. Defendant did not infringe just one or two of Strike
7 3's motion pictures, rather, Defendant has been recorded infringing 47 movies
8 over an extended period of time.

9 5. Although Defendant attempted to hide this theft by infringing
10 Plaintiff's content anonymously, this court entered an order permitting Plaintiff to
11 serve a subpoena on their Internet Service Provider ("ISP"), Spectrum
12 ("Spectrum"), to discover the identity of the subscriber assigned IP address
13 76.91.237.15, the IP address Defendant used to download and share Plaintiff's
14 works.

15 6. Based on the response to that subpoena provided by the ISP and
16 Plaintiff's investigation of the subscriber and publicly available resources,
17 Plaintiff identified Defendant as the true infringer.

18 7. This is a civil action seeking damages under the United States
19 Copyright Act of 1976, *as amended*, 17 U.S.C. §§ 101 et seq. (the “Copyright
20 Act”).

Jurisdiction and Venue

22 8. This Court has subject matter jurisdiction over this action pursuant to
23 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 1338 (jurisdiction over
24 copyright actions).

25 9. This Court has personal jurisdiction over Defendant because
26 Defendant used an Internet Protocol address (“IP address”) traced to a physical
27 address located within this District to commit copyright infringement. Therefore:
28 (i) Defendant committed the tortious conduct alleged in this First Amended

1 Complaint in this State; (ii) Defendant resides in this State and/or; (iii) Defendant
2 has engaged in substantial – and not isolated – business activity in this State.

3 10. Pursuant to 28 U.S.C. § 1391(b) and (c), venue is proper in this
4 district because: (i) a substantial part of the events or omissions giving rise to the
5 claims occurred in this District; and, (ii) the Defendant resides (and therefore can
6 be found) in this District and resides in this State. Additionally, venue is proper in
7 this District pursuant 28 U.S.C. § 1400(a) (venue for copyright cases) because
8 Defendant or Defendant’s agent resides or may be found in this District.

Parties

10 11. Plaintiff, Strike 3 is a Delaware limited liability company located at
11 2140 S. Dupont Hwy, Camden, DE.

12 12. Defendant, [REDACTED], is an individual currently residing at
13 [REDACTED].

Factual Background

Plaintiff's Award-Winning Copyrights

16 13. Strike 3's subscription-based websites proudly boast a paid
17 subscriber base that is one of the highest of any adult-content sites in the world.
18 Strike 3 also licenses its motion pictures to popular broadcasters and Strike 3's
19 motion pictures are the number one selling adult DVDs in the United States.

20 14. Strike 3's motion pictures and websites have won numerous awards,
21 such as "best cinematography," "best new studio," and "adult site of the year."

22 15. Strike 3's motion pictures have had positive global impact, leading
23 more adult studios to invest in better content, higher pay for performers, and to
24 treat each performer with respect and like an artist.

25 16. Unfortunately, like a large number of other makers of motion picture
26 and television works, Strike 3 is the victim of mass Internet piracy. Often
27 appearing among the most infringed popular entertainment content on torrent
28 websites, Strike 3's motion pictures are among the most pirated content in the

1 world.

2 ***Defendant Used the BitTorrent File Distribution Network***

3 ***to Infringe Plaintiff's Copyrights***

4 17. BitTorrent is a system designed to quickly distribute large files over
5 the Internet. Instead of downloading a file, such as a movie, from a single source,
6 BitTorrent users are able to connect to the computers of other BitTorrent users in
7 order to simultaneously download and upload pieces of the file from and to other
8 users.

9 18. BitTorrent's popularity stems from the ability of users to directly
10 interact with each other to distribute a large file without creating a heavy load on
11 any individual source computer and/or network. It enables Plaintiff's motion
12 pictures, which are often filmed in state of the art 4kHD, to be transferred quickly
13 and efficiently.

14 19. To share a movie within the BitTorrent network, a user first uses
15 BitTorrent software to create a .torrent file from the original digital media file.
16 This process breaks the original digital media file down into numerous pieces.

17 20. The entire movie file being shared has a hash value (i.e., the "File
18 Hash"). A hash value is an alpha-numeric value of a fixed length that uniquely
19 identifies data.

20 21. Hash values are not arbitrarily assigned to data merely for
21 identification purposes, but rather are the product of a cryptographic algorithm
22 applied to the data itself. As such, while two identical sets of data will produce
23 the same cryptographic hash value, any change to the underlying data – no matter
24 how small – will change the cryptographic hash value that correlates to it.

25 22. To find and re-assemble the pieces of the digital media file, i.e., to
26 download the file using BitTorrent, a user must obtain the .torrent file for the
27 specific file that has been broken down into pieces.

28 23. Each .torrent file contains important metadata with respect to the

1 pieces of the file. When this data is put into the cryptographic algorithm, it results
2 in a hash value called the “Info Hash.”

3 24. The “Info Hash” is the data that the BitTorrent protocol uses to
4 identify and locate the other pieces of the desired file (in this case, the desired file
5 is the respective file for the infringing motion pictures that are the subject of this
6 action) across the BitTorrent network.

7 25. Using the Info Hash in the metadata of a .torrent file, a user may
8 collect all the pieces of the digital media file that correlates with the specific
9 .torrent file.

10 26. Once a user downloads all of the pieces of that digital media file from
11 other BitTorrent users, the digital media file is automatically reassembled into its
12 original form, ready for playing.

13 27. Plaintiff has developed, owns, and operates an infringement detection
14 system, named “VXN Scan.”

15 28. Using VXN Scan, Plaintiff discovered that Defendant used the
16 BitTorrent file network to illegally download and distribute Plaintiff’s copyrighted
17 motion pictures.

18 29. To explain, while Defendant was using the BitTorrent file
19 distribution network, VXN Scan established direct TCP/IP connections with
20 Defendant’s IP address.

21 30. VXN Scan downloaded from Defendant one or more pieces of
22 numerous digital media files.

23 31. Plaintiff identified these pieces as portions of infringing copies of
24 Strike 3’s motion pictures.

25 32. To explain, the VXN Scan system first searched for and obtained
26 .torrent files claiming to be infringing copies of Plaintiff’s works, and then
27 downloaded complete copies of the digital media files that correlate to those
28 .torrent files.

1 33. Plaintiff then compared the completed digital media files to
2 Plaintiff's copyrighted works to determine whether they are infringing copies of
3 one of Plaintiff's copyrighted works.

4 34. The digital media files have been verified to contain a digital copy of
5 a motion picture that is identical (or, alternatively, strikingly similar or
6 substantially similar) to Plaintiff's corresponding original copyrighted Works.

7 35. VNX Scan then used the "Info Hash" value, contained within the
8 metadata of the .torrent file correlated with a digital media file that was
9 determined to be identical (or substantially similar) to a copyrighted work, to
10 download a piece (or pieces) of the same digital media file from Defendant using
11 the BitTorrent network.

12 36. At no point did VNX Scan upload content to any BitTorrent user.
13 Indeed, it is incapable of doing so.

14 37. The VNX Scan captured transactions from Defendant sharing
15 specific pieces of 47 digital media files that have been determined to be identical
16 (or substantially similar) to a copyrighted work(s) that Plaintiff owns.

17 38. VNX Scan recorded each transaction in a PCAP file.

18 39. VNX Scan recorded multiple transactions in this matter.

19 40. For each work infringed a single transaction is listed on Exhibit A.

20 41. For each transaction listed, Exhibit A sets forth the Universal Time
21 Coordinated (UTC) time and date of each transaction, along with (1) the Info
22 Hash value obtained from the metadata of the corresponding .torrent file that
23 formed the basis of the VNX Scan's request for data, and (2) the File Hash value
24 of the digital media file itself.

25 42. Exhibit A also sets forth relevant copyright information for each
26 work at issue: the date of publication, the date of registration, and the work's
27 copyright registration number. In a showing of good faith, Plaintiff has
28 intentionally omitted the title of the work from this public filing due to the adult

1 nature of its content but can provide a version of Exhibit A containing the works'
2 titles to the Court or any party upon request.

3 43. Thus, Defendant downloaded, copied, and distributed Plaintiff's
4 Works without authorization.

5 44. Defendant's infringement was continuous and ongoing.

6 45. Plaintiff owns the copyrights to the Works and the Works have been
7 registered with the United States Copyright Office.

8 46. Plaintiff seeks statutory damages, attorneys' fees, and costs under
9 17 U.S.C. § 501 of the United States Copyright Act.

10 *Discovery Will Likely Show that Defendant is the Individual
11 Who Infringed Plaintiff's Copyrighted Works*

12 47. Plaintiff's investigation has determined that Defendant is the person
13 who used this IP address to infringe on its copyrighted works.

14 48. In response to Plaintiff's subpoena, the ISP indicated that IP address
15 76.91.237.15 was assigned to Defendant at the residence identified in paragraph
16 12 above during at least one date of infringement.

17 49. Defendant lived at the residence identified in paragraph 12 above
18 during the period of infringement.

19 50. Plaintiff logged BitTorrent network activity emanating from IP
20 address 76.91.237.15 involving works other than Plaintiff's copyrighted works.
21 Collectively, this evidence is referred to as the "Additional Evidence."

22 51. [REDACTED].

23 52. [REDACTED].

24 53. [REDACTED].

25 54. [REDACTED].

26 **COUNT I**

27 **Direct Copyright Infringement**

28 55. The allegations contained in paragraphs 1-54 are hereby re-alleged as

1 if fully set forth herein.

2 56. Plaintiff is the owner of the Works, which are each an original work
3 of authorship.

4 57. Defendant copied and distributed the constituent elements of
5 Plaintiff's Works using the BitTorrent protocol.

6 58. At no point in time did Plaintiff authorize, permit or consent to
7 Defendant's copying, distribution, performance and/or display of its Works,
8 expressly or otherwise.

9 59. As a result of the foregoing, Defendant violated Plaintiff's exclusive
10 right to:

11 (A) Reproduce its Works in copies, in violation of 17 U.S.C. §§ 106(1)
12 and 501;

13 (B) Distribute copies of the Works to the public by sale or other transfer
14 of ownership, or by rental, lease or lending, in violation of 17 U.S.C. §§ 106(3)
15 and 501;

16 (C) Perform the copyrighted Works, in violation of 17 U.S.C. §§ 106(4)
17 and 501, by showing the Works' images in any sequence and/or by making the
18 sounds accompanying the Works' audible and transmitting said performance of
19 the work, by means of a device or process, to members of the public capable of
20 receiving the display (as set forth in 17 U.S.C. § 101's definitions of "perform"
21 and "publicly" perform); and

22 (D) Display the copyrighted Works, in violation of 17 U.S.C. §§ 106(5)
23 and 501, by showing individual images of the works non-sequentially and
24 transmitting said display of the works by means of a device or process to members
25 of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's
26 definition of "publicly" display).

27 60. Defendant's infringements were committed "willfully" within the
28 meaning of 17 U.S.C. § 504(c)(2).

1 WHEREFORE, Plaintiff respectfully requests that the Court:

2 (A) Permanently enjoin Defendant from continuing to infringe Plaintiff's
3 copyrighted Works;

4 (B) Order that Defendant delete and permanently remove the digital
5 media files relating to Plaintiff's Works from each of the computers under
6 Defendant's possession, custody or control;

7 (C) Order that Defendant delete and permanently remove the infringing
8 copies of the Works Defendant has on computers under Defendant's possession,
9 custody or control;

10 (D) Award Plaintiff statutory damages per infringed work pursuant to
11 17 U.S.C. § 504(a) and (c);

12 (E) Award Plaintiff its reasonable attorneys' fees and costs pursuant to
13 17 U.S.C. § 505; and

14 (F) Grant Plaintiff any other and further relief this Court deems just and
15 proper.

16 DATED this 4th day of November, 2022.

17 **Law Offices of Lincoln Bandlow, PC**

18 *s/ Lincoln D. Bandlow*
19 Lincoln D. Bandlow, Esq.
20 Attorneys for Plaintiff
21 Strike 3 Holdings, LLC

22 **DEMAND FOR A JURY TRIAL**

23 Plaintiff hereby demands a trial by jury on all issues so triable.

24 DATED this 4th day of November, 2022.

25 **Law Offices of Lincoln Bandlow, PC**

26 *s/ Lincoln D. Bandlow*
27 Lincoln D. Bandlow, Esq.
28 Attorneys for Plaintiff
Strike 3 Holdings, LLC